IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

WRIT PETITION NO : 9801 of 1995

Between:

1 K.Durgaiah S/o.Lingaiah
Papannapet village and Mandal Medak Dist
2 K.Indira W/o.Narasimha
Papannapet village and Mandal Medak Dist

..... PETITIONERS

AND

1 The Mandal Revenue Officer
Papannapet, Medak Dist
2 The Revenue Divisional Officer
Medak
3 The District Collector
Medak, Sangareddy, Medak Dist

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the entire proceedings No.C1/338/93, Dt.24/4/1995 of the 1st respondent as bad, illegal and void and without jurisdiction and violative of principles of natural justice and set aside the same in the interest of justice and to pass such other order.

Counsel for the Petitioner: MR.P.LAKSHMA REDDY

Counsel for the Respondent No.: GP FOR REVENUE

The Court made the following :

ORDER:

Questioning the proceedings No. C1/338/93, dated 24.4.1995 of the 1st respondent that the land in an extent of Ac.1.04 cents was assigned to the petitioners, on market value, by misunderstanding of the orders of the 2nd respondent, and holding that the 1st respondent is not competent to assign the land, the petitioners filed the present writ petition.

The first petitioner states that he and the 2nd petitioner own Ac.5.00 and Ac. 3.00 of dry land respectively in S. Nos. 187, 188 and 189 of Nangasampally village of Papannapet Mandal in Medak District and that adjacent to their patta lands, there is government land in S. No. 185 and that the first petitioner has been in possession of Ac.1.04 guntas of government land in that Survey Number for 15 years, which, he is using as an approach road to his lands and that the said Government land is situated in the middle of his patta land.

The 1st petitioner further submits that on 11.5.1993 the then Mandal Revenue Officer issued notice to him under Section 7 of A.P. Land Encroachment Act 1905, per contra, relying on Rule IV of the said Act, he submitted a representation before the MRO on 19-5-1993 stating that adjacent to his patta land, there is Government

poramboke in Sy. No. 185 and he has been in possession of the same for the last 15 years, and as there was no other way or approach road to his patta lands, he requested the authorities to assign the above said land in his favour on payment of market value, but the same was rejected by the then MRO. He further submits that on 29-6-1993 the then MRO passed an eviction order Under Section 6 of the said Act, on that the 1st petitioner filed an appeal before the 2nd respondent who in turn stayed the said proceedings and ultimately set aside the orders of the then MRO. Consequently, the then MRO assigned land to an extent of Ac.0.22 to each of the petitioners on market value on 21.10.1994 and that the petitioners also paid the amounts and since then they have been in possession of the said land.

It is further stated that the 1st respondent issued the impugned proceedings stating that the land to the above extent was assigned to the petitioners under misunderstanding of the orders of the 2nd respondent and that the assignment orders are bad in law since the 1st respondent is not competent to assign the land to the petitioners at market value and directed the petitioners to collect the amount so deposited. Hence, the present writ petition contending that the 1st respondent has not issued any notice to the petitioners before passing the impugned order and as such the impugned proceedings are against to the principles of natural justice.

Heard both sides.

Learned counsel for the petitioners argued that the respondents have not followed due process of law before ordering eviction of the petitioners from the land in which they are in possession and hence the impugned proceedings are liable to be set aside.

While admitting the writ petition, this Court by an order dated 9.5.1995 ordered interim stay of all further proceedings in the present matter. However, a reading of the impugned proceedings reveals that no prior notice has been issued by the 1st respondent to the

petitioners and no material has also been placed before this Court showing that the authorities have followed the principles of natural justice before coming to conclusion that the assignment is void in law. Therefore, under the above circumstances, the impugned proceedings are liable to be set aside.

Accordingly, the writ petition is allowed and the proceedings of the 1st respondent dated 24-4-1995 are set aside. The respondents are directed to issue notice to the petitioners as per law, within a period of eight weeks from the date of receipt of a copy of this order and petitioners are directed to submit their objections to the said notice within a period of eight weeks thereof and on filing of such objections, by the petitioners, the respondents shall consider the same and pass appropriate orders within a period of three weeks thereof. Till such time, the interim stay granted shall continue. No costs.

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kvsn 09-12-2004

To

1 The Mandal Revenue Officer
Papannapet, Medak Dist
2 The Revenue Divisional Officer
Medak
3 The District Collector
Medak, Sangareddy, Medak Dist

4 Two CCs to G.P. for Revenue, High Court Buildings, Hyderabad.

5 Two C D copies.